

PATENT COOPERATION TREATY

From the:
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To: Blake Dawson Waldron Locked Bag N6 PO Grosvenor Place SYDNEY NSW 2000	BLAKE DAWSON WALDRON PATENT SERVICES Updated/Received: 29 JUL 2005 By: To:
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PCT

**WRITTEN OPINION OF THE INTERNATIONAL
PRELIMINARY EXAMINING AUTHORITY**
(PCT Rule 66)

Applicant's or agent's file reference DGC 136731		Date of mailing (day/month/year) 28 JUL 2005	
International application No. PCT/AU2004/000844		International filing date (day/month/year) 25 June 2004	
International Patent Classification (IPC) or both national classification and IPC Int. Cl. ⁷ G06F 17/60, 153:00		Priority date (day/month/year) 28 July 2003	
Applicant: STOKBOT NETWORKS PTY LIMITED et al			

1. ☒ The written opinion established by the International Searching Authority:

☒ is

☐ is not

 considered to be a written opinion of the International Preliminary Examining Authority.
 2. This **second** (second, etc.) opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
- The applicant is hereby invited to reply to this opinion.
- When?** See the **Reply Due** date indicated above. However, the Australian Patent Office will not establish the **Report** before the earlier of (i) a response being filed, or (ii) one month before the **Final Date** by which the international preliminary examination report must be established. The **Report** will take into account any response (including amendments) filed before the **Report** is established. If no response is filed by 1 month before the Final Date, the international preliminary examination report will be established on the basis of this opinion.
- Applicants wishing to have the benefit of a further opinion (if needed) before the report is established should ensure that a response is filed at least 3 months before the **Final Date** by which the international preliminary examination report must be established.
- How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.
- Also** For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis. For an informal communication with the examiner, see Rule 66.6.
4. The **FINAL DATE** by which the international preliminary report on patentability (Chapter II of the PCT) must be established according to Rule 69.2 is: 28 November 2005

Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer J.W. THOMSON Telephone No. (02) 6283 2214
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WRITTEN OPINION OF THE
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

International application No.

PCT/AU2004/000844

Box No. I	Basis of the opinion
1.	<p>With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This opinion is based on a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of:</p> <p style="margin-left: 40px;"><input type="checkbox"/> international search (under Rules 12.3 and 23.1 (b))</p> <p style="margin-left: 40px;"><input type="checkbox"/> publication of the international application (under Rule 12.4)</p> <p style="margin-left: 40px;"><input type="checkbox"/> international preliminary examination (under Rules 55.2 and/or 55.3)</p>
2.	<p>With regard to the elements of the international application, this opinion has been established on the basis of <i>(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed.")</i>:</p> <p><input type="checkbox"/> the international application as originally filed/furnished</p> <p><input checked="" type="checkbox"/> the description: pages 1, 9-16, as originally filed/furnished pages 2 - 8A, received by this Authority on 4 April 2005 with the letter of the same pages , received by this Authority on with the letter of</p> <p><input checked="" type="checkbox"/> the claims: pages , as originally filed/furnished pages , as amended (together with any statement) under Article 19, pages 17-25, received by this Authority on 4 April 2005 with the letter of the same pages , received by this Authority on with the letter of</p> <p><input checked="" type="checkbox"/> the drawings: pages 1/8 - 8/8, as originally filed/furnished pages , received by this Authority on with the letter of pages , received by this Authority on with the letter of</p> <p><input type="checkbox"/> a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.</p>
3.	<p><input type="checkbox"/> The amendments have resulted in the cancellation of:</p> <p style="margin-left: 40px;"><input type="checkbox"/> the description, pages</p> <p style="margin-left: 40px;"><input type="checkbox"/> the claims, Nos.</p> <p style="margin-left: 40px;"><input type="checkbox"/> the drawings, sheets/figs</p> <p style="margin-left: 40px;"><input type="checkbox"/> the sequence listing (<i>specify</i>):</p> <p style="margin-left: 40px;"><input type="checkbox"/> any table(s) related to the sequence listing (<i>specify</i>):</p>
4.	<p><input type="checkbox"/> This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).</p> <p style="margin-left: 40px;"><input type="checkbox"/> the description, pages</p> <p style="margin-left: 40px;"><input type="checkbox"/> the claims, Nos.</p> <p style="margin-left: 40px;"><input type="checkbox"/> the drawings, sheets/figs</p> <p style="margin-left: 40px;"><input type="checkbox"/> the sequence listing (<i>specify</i>):</p> <p style="margin-left: 40px;"><input type="checkbox"/> any table(s) related to the sequence listing (<i>specify</i>):</p>

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Box No. V **Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims 5-22, 26-57	YES
	Claims 1-4, 23, 24, 25	NO
Inventive step (IS)	Claims 5-9, 26-57	YES
	Claims 1-4, 10-25	NO
Industrial applicability (IA)	Claims 1-57	YES
	Claims	NO

Citations and explanations:

D1: US 6092726 (TOUSSANT et al.)

The invention defined in claims 1-4, 23 and 24 is not novel (and does not involve an inventive step) when compared with prior art document **D1** which discloses all the essential features of the invention claimed.

In your response to the first written opinion you distinguish the claimed invention from the cited art with the following statement "The prior art US '726 fails to describe or teach the counting of the product by empirically determining the unitary weight of the product from which the product account is deducted." There is no disclosure of capturing product flow through the use of weight within claims 1 and 23. Whilst in claims 24 and 25 there is no disclosure of determining the unitary weight.

D2: US Statutory Invention Registration No. H1743 (GRAVES et al.)

The invention defined in claims 1-4, 23 and 24 is not novel (and does not involve an inventive step) when compared with prior art document **D2** which discloses all the essential features of the invention claimed

In your response to the first written opinion you distinguish the claimed invention from the cited art with the following statement "The prior art US'743 fails to describe or teach monitoring of the flow of product by weighing a supply of the product so as to count the product." There is no disclosure of capturing product flow through the use of weight in claims 1 and 23.

Furthermore, it is considered that the features added by appended claims 10-24 relate to arrangements that are merely matters of design choice when the general technical knowledge about the state of the art is used and therefore cannot contribute to providing a patentable inventive step.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 24 is not fully supported by the description as it omits the following features:

- monitoring the flow of product at the point of display
- the flow of product is captured remotely and in real time; and
- means for controlling the delivery of product to said outlets.

Which from reading the specification as a whole appears to be essential to the invention.

Claims 25, 35 and 48 are not fully supported by the description as they omit the feature of the monitoring of the flow of product being done at the point of display. Which from reading the specification as a whole appears to be essential to the invention.